information segregation is doubtful, at best. The Commission should not add any complexity without thorough evaluation and a cogent rationale to explain the genuine need for the requirement, beyond the desire of competitors for as much OSS information as possible.

A number of proposed performance measures simply miss the mark because of the different legal, technological and competitive status of many rural and urban ILECs. Asking non-automated carriers like the TDS rural ILECs to provide "flow through" information (Appendix A, II.F.1), premised on electronic processing without manual intervention (¶71), is pointless: the "flow through" for a manual system is, by definition, zero. Even the description of the data to be supplied is useless, since the TDS Telecom rural ILECs have no gateways for competitors to access and measure. Since TDS ILECs do not have systems in place to accomplish the functions measured in the systems availability portion of Appendix A (§ V.A), and have no system interface to measure, the answer there would also be zero, unless the dedicated staff that process orders manually were regarded as a (non-comparable) surrogate. In the same way the "center responsiveness" measure (Appendix A, § V.B) has no point for TDS Telecom rural ILECs because they have no "center" to measure now.

Each ILEC would have to provide dedicated staff to function as a call center for competitors whenever the §251(c)requirements became applicable for that ILEC's area.

To complicate matters further, the 106 TDS Telecom ILECs are not only scattered across 28 states, but also have been acquired individually over a period of more than two decades. Each company has brought with it its own systems, developed under its earlier owners. Each unique system has been integrated into the TDS network, but idiosyncracies remain, making network-wide guidelines totally inappropriate. The Commission should not establish any guidelines for rural ILECs at this time because they are not only not subject to the same interconnection requirements as the largest ILECs, but also have entirely different kinds of systems for OSS and data gathering.

The NPRM is internally inconsistent and unclear about exactly what the Commission has in mind for rural ILECs, but it seems to expect major system alterations by ILECs. For example, some passages (¶¶29, 40, 41-42) seem to imply that some measures would apply only to existing electronic systems, and at least once (¶91), the NPRM suggests that *nondiscrimination* requires electronic processing only if an ILEC meets its own needs electronically. However, elsewhere, the NPRM considers (¶¶126,

129) whether to require compliance with industry OSS standards assuming automation by setting a deadline or to extend a compliance requirement included as a merger condition placed on Bell Atlantic and Nynex to all remaining ILECs. In proposal after proposal, the NPRM reiterates (¶¶43, 60, 61, 62, 63, 64, 65, 72-73, 75, 80-81, 89, 92, 96) that "an ILEC must measure" one or another function or outcome, without regard to whether the assumed electronic capabilities exist or would have to be developed. And, after the sweeping statement (¶59) that "a number of carriers have indicated that they already report, or are willing to report" a laundry list of order status measurements that TDS Telecom ILECs are not equipped to report, the Commission tentatively concluded that "all incumbent LECs must also measure these intervals for themselves, whether or not they have done so previously, in order to provide a basis for comparison with the average intervals for competing carriers."

The Commission must not adopt tests and standards that require ILECs, in effect, to provide arrangements of "superior quality" to what they provide in the course of their own internal operations, at the request of their competitors. Iowa Utilities Board v. FCC, 120 F.3d 753,812-313 (8th Cir. 1997) cert. granted, _ U.S._, 118 S. Ct. 879 (1998). In Iowa Utilities Board, the

Eighth Circuit struck down earlier Commission rules to implement §251(c) because they imposed this standard on interconnection and access to unbundled elements. The court found (Id. at 813) that §251(c)(3) requires "unbundled access only to an incumbent carrier's existing network, not to a yet unbuilt superior one" (emphasis in the original).

OSS Compliance Measures Should Not Look to the TDS Telecom ILECs to Demonstrate Compliance with Functions Acquired from Other Sources

Requirements for TDS Telecom carriers to furnish information about 911 and E911 database updates are not justified by the underlying premise of the §251 interconnection requirements. These databases are not furnished exclusively by the TDS ILECs and are not "essential services" that a competitor can only obtain from the ILECs. TDS contracts with outside entities to maintain the 911 databases, as could a competitor for the customers locations it serves. TDS cannot reasonably be held responsible for the accuracy or timeliness of the contractor's updates. In the case of a competitor acquiring a TDS ILEC's loops as UNEs (which the Commission has declared the equal of ownership for purposes of eligibility for universal service support), it would be even more sensible to expect the competitor to provide such functions in its own behalf. That carrier, with the exclusive right to use and charge end users for those loops, should shoulder with its Commission-bestowed quasi-property interest the responsibility to update or contract for the updating of its customer locations.

Nor should TDS ILECs be held accountable for the "systems availability" performance measurements for Operator and Directory Assistance services (Appendix A, § V.C). Here again, TDS acquires these functions via contract from another entity and neither controls the response performance of the contractor nor provides the sole source for the functions.

Conclusion

The Commission should, therefore, exclude rural ILECs from its effort to persuade states to impose extensive measurement and documentation requirements for ILECs. Rural ILECs are generally exempt now from the requirements the Commission is trying to expand, so there is no need for hasty adoption of heavy requirements while many interconnection issues remain unsettled. The requirements and the apparent expectation that rural ILECs with manual OSS would become as fully automated as the big city ILEC systems would also require costly upgrades and information system changes that would heap costs for enforcement of competitors' access to OSS on rural customers that will be the last to enjoy the benefits of the competition the Commission is seeking to jump start. In its consideration and in any requirements it adopts here, the Commission should carefully honor the commitment to preventing undue burdens on rural ILECs that it wisely established in the NPRM

Respectfully submitted,

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